

U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

VINCENT AMARA,
Plaintiff

v.

ANDREY REVERT, AMTRAK,
and CRAWFORD RISK
MANAGEMENT SERVICE,
Defendants

CIVIL ACTION NO.: 04-10094 GAO

JOINT PRETRIAL MEMORANDUM

1. CONCISE SUMMARY OF THE EVIDENCE

The Plaintiff, Vincent Amara, alleges that on January 31, 2001, while stopping at a red light on Route 16 East Bound in Medford, Massachusetts, a crossing guard stepped out from the sidewalk holding a hand held stop sign in order to allow a pedestrian to cross. While Mr. Amara's vehicle was stopped, another vehicle, being driven by the defendant, Andrey Revert, collided with Mr. Amara's vehicle from behind. The Plaintiff further alleges that as a result of the collision, he sustained serious personal injuries including injuries to his back and right shoulder.

Plaintiff:

The Plaintiff, Vincent Amara expects the evidence to show at all times relevant to this action:

1. That the Plaintiff was operating his motor vehicle heading east bound on Route 16 in Medford, Massachusetts.
2. That the Defendant, Andrey Revert, was operating a motor vehicle which was owned by the Defendant, Amtrak, directly behind the Plaintiff's vehicle heading east bound on Route 16 in Medford, MA.
3. That the Defendant, Andrey Revert was operating said motor vehicle, without a valid license.
4. That it was the duty of the Defendant, Revert to operate said motor vehicle with due care and caution, in accordance with the applicable ordinances and statutes in effect at the said time and place.
5. That the Defendant, Revert carelessly and negligently failed to stop with traffic, and/or failed to maintain a proper lookout, and/or carelessly and negligently failed to maintain proper control over said motor vehicle, and/or carelessly and negligently operated said motor vehicle at an

excessive and dangerous rate of speed in light of the traffic and weather conditions then and there present.

6. That the Plaintiff was caused to suffer serious personal injury as a result of the alleged accident.
7. That the Defendant, Amtrak owned the vehicle which Andrey Revert was operating.
8. That, as the owner of the vehicle, Amtrak is liable to the Plaintiff for the negligence of the Defendant, Andrey Revert.
9. That the Plaintiff's medical bills to date include:

Harvard Vanguard Medical Associates	\$1,003.00
Orient Heights Chiropractic	\$4,750.00
Cummings Physical Therapy	\$1,560.00
North Suburban Orthopedic Associates	\$ 325.00
Associated Health Care Group	\$ 475.00
Chelsea M.R.I.	\$1,295.00

Defendants:

The Defendants, Andrey Revert and Amtrak expect the evidence to show that:

1. The defendant, Andrey Revert, was operating the Amtrak vehicle, that he was doing so with all due care and caution, and that the accident was unavoidable.
2. The defendant, Andrey Revert, was properly supervised and trained by his employer, Amtrak.
3. If the plaintiff was injured as a result of the accident, his injuries were not as severe as he claims.

2. FACTS ESTABLISHED BY PLEADINGS

None at this time.

3. CONTESTED ISSUES OF FACT

All issues are contested in this matter, including liability, causation and the nature and extent of the damages allegedly sustained by the plaintiff.

4. JURISDICTIONAL QUESTIONS

None.

5. QUESTIONS RAISED BY PENDING MOTIONS

The defendants have filed a motion to stay, or in the alternative, to sever, Count III of the plaintiff's complaint. Count III raises claims of unfair settlement practices pursuant to M.G.L. c. 93A and 176D. Should that motion be denied, all parties reserve the right to amend this pretrial conference memorandum to include the issues pertinent to Count III.

6. **ISSUES OF LAW**

This is a simple motor vehicle negligence case.

7. **AMENDMENTS TO THE PLEADINGS**

Plaintiff's Assented to Motion to Amend the Complaint Pursuant to Fed. R. Civ. P. Rule 15 (4/8/04)

8. **ADDITIONAL MATTERS**

We attempted to resolve this case through Mediation and we are currently \$18,000 apart. Resolution of this matter prior to trial would be beneficial to all parties and to the Court.

9. **ESTIMATED LENGTH OF TRIAL**

2-3 days.

10. **LIST OF WITNESSES**

The Plaintiff reserves the right to call any witnesses listed by the defendants in this pre-trial memorandum during the Plaintiff's case in chief, and further expects to present the testimony of:

1. Vincent Amara (617) 846-2689
789 Shirley Street
Winthrop, MA
(expected to testify relative to the happening of the alleged accident, his injuries and his pain and suffering.

The Plaintiff reserves the right to seasonably supplement this witness list prior to the trial of this matter.

Andrey Revert and Amtrak reserve the right to call any witnesses listed by the Plaintiff in this pre-trial memorandum during their case in chief, and further expect to present the testimony of:

1. Andrey Revert
27 Woodville Street
Everett, MA
(expected to testify concerning the events leading up to the accident and the accident itself)
2. Dr. Daniel Snyder
Newton-Wellesley Hospital
(expected to testify concerning the plaintiff's injuries)

3. Vincent Amara
789 Shirley Street
Winthrop, MA
(expected to testify concerning the accident and the plaintiff's injuries and damages)

Andrey Revert and Amtrak reserve the right to reasonably supplement this witness list prior to the trial of this matter.

11. PROPOSED EXHIBITS

Plaintiff:

1. Medical bills and records:
- | | |
|--------------------------------------|------------|
| Harvard Vanguard Medical Associates | \$1,003.00 |
| Orient Heights Chiropractic | \$4,480.00 |
| Cummings Physical Therapy | \$1,560.00 |
| North Suburban Orthopedic Associates | \$ 325.00 |
| Associated Health Care Group | \$ 475.00 |
| Chelsea M.R.I. | \$1,295.00 |

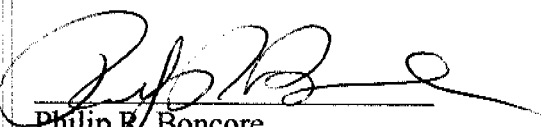
Defendants, Andrey Revert and Amtrak:

1. Medical bills and records:
- Harvard Vanguard Medical Associates
Dr. Matthew J. Mallen
Kevin Cummings, Physical Therapy
Glen Dodes, D.C. Chiropractor
Dr. John Lynch
Dr. Daniel Snyder

12. OBJECTIONS TO EVIDENCE

None at this time.

Respectfully Submitted
Vincent Amara, Plaintiff
By his attorney


Philip R. Boncore
Law Office of Philip R. Boncore, P.C.
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(617) 561-0999
BBO#: 048940

Date: 3/3/05

Respectfully Submitted
Andrey Revert, Amtrak, and Crawford Risk
Management Service, Defendants
By their attorney

John J. Bonistalli, (BBO#: 049120)
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One Financial Center
Boston, MA 02111
(617) 695-3755

Date: _____